**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN**
**&**
**THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR**

**WEDNESDAY, THE 21ST NOVEMBER 2007 / 30TH KARTHIKA 1929**

**MACA.No. 35 of 2006()**
**----------**
**OPMV.620/2002 of MOTOR ACCIDENT CLAIMS TRIBUNAL, PALA**
**.....**

**APPELLANT/PETITIONER:**
**----------**
**PRAKASH C. VADAKKAN,**
**VADAKKAN HOUSE, ANTHINAD P.O.-686 651,**
**PALA, KOTTAYAM, ALANAD KARA,**
**BHARANANGANAM VILLAGE, MEENACHIL TALUK.**

**BY ADV. SRI.BABY THOMAS**
**SRI.GIGIMON ISSAC**
**SRI.PADMAKUMAR.K.C.**
**SRI.MATHEW JOHN (K)**
**SRI.BABY THOMAS**

**RESPONDENTS:**
**----------**
**1. P.K. CHELLAPPAN, S/O. KUNJAPPAN,**
**CHERANGANALPARAMBIL HOUSE, CHERANGANAL KARA,**
**KOTTAPPADY VILLAGE, KOTHAMANGALAM TALUK,**
**ERNAKULAM DIST. (DRIVER).**

**2. P.P. VENUKUMAR, PALLANGAT HOUSE,**
**VAACODE P.O., ERNAKULAM.**

**3. BRANCH MANAGER, NATIONAL INSURANCE**
**CO.LTD., DAMODAR CHAMBERS, STATUE JUNCTION,**
**TRIPUNITHURA-682 301,**
**POLICY NO.570800/2000/6312654**
**(REN-1999/6309743) 813611.**

**BY ADV. SRI.P.R.RAMACHANDRA MENON**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 21/11/2007 ALONG WITH MACA NO. 115 OF 2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

**K.S.RADHAKRISHNAN & T.R.RAMACHANDRAN NAIR, JJ.**

**----------**

**M.A.C.A.Nos. 35, 115 OF 2006**

**----------**

Dated this the 21st day of November, 2007

**JUDGMENT**

Radhakrishnan, J.

Claimant is the appellant in M.A.C.A.No.35/06. Third respondent Insurance company filed M.A.C.A.No.115/06. Claimant was an advocate by profession. Accident and the insurance coverage are not disputed. Accident took place in the year 2002. While the claimant was travelling from Pala to Pravithanam in a motor bike bearing Reg. No. KL-5E 7719 and when it reached at Kanattupara, a bus came from the opposite direction and hit the bike. Petitioner fell down and sustained serious injuries. The percentage of disability was fixed as 45%. It was accepted by the Tribunal. The monthly income of the claimant was taken as Rs. 3500/-. PW2 was the senior advocate with whom the claimant was working . PW1-claimant was also examined. Claimant stated that he was getting a monthly income of Rs. 7,000/- from profession. Apart from oral evidence no other evidence was adduced to show his monthly income. Therefore, the Tribunal took it as Rs. 3500/- as monthly income of

the claimant and permanent disability was determined at Rs. 3,21,300/-. For all other heads, reasonable amount was awarded. On the whole, a total compensation of Rs. 7,04,700/- was awarded.

Counsel for the Insurance Company submits that the award amount is very high. She also submits that the accident took place due to the rash and negligent driving of the motor bike. In the absence of any evidence to show the head-on- collision, we do not accept the version of the Insurance Company. Since we find that the amount of compensation is just and proper, we are inclined to dismiss the appeal filed by the claimant and also the appeal filed by the Insurance Company.

Appeals are dismissed.

**K.S.RADHAKRISHNAN**
**JUDGE**

**T.R.RAMACHANDRAN NAIR**
**JUDGE**

sv.